UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
NANO, SARGON N

ART UNIT	PAPER NUMBER
2157	

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/834,689	SAH, ADAM D.
	Examiner	Art Unit	
	Sargon N. Nano	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>21 April 2005</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>21-40</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>21-40</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
         application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)   4) ☐ Interview Summary (PTO-413)
                                                       Paper No(s)/Mail Date. _____ .
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)   5) ☐ Notice of Informal Patent Application (PTO-152)
   Paper No(s)/Mail Date _____.   6) ☐ Other: _____.

DETAILED ACTION

1.   This action is responsive to RCE filed on April 21 , 2005 . Claims 1 – 20 were

cancelled. Claims 21 – 40 were added. Claims 21 – 40 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 21-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Hsu et al. U.S Patent No. 6,363,319 (referred to hereafter as Hsu) in view of Marchese

et al., U.S. Patent No. 6,891566.

Hsu teaches a method and apparatus for selecting for a flow from a plurality of

network paths connecting source to destination (see abstract).

As to claims 21, 34 and 40,Hsu teaches a computer-implemented method and

system respectively of sending images to a recipient, the method

comprising:

(a)   sending a video package to a system of a recipient via a first network

path (see col. 4 lines 39-46, sends video data from video device through a

selected path), the first image package comprising:

(b)   selecting a second network path from a plurality of paths for sending at

least a first portion of a subsequent image package to the recipient, the

subsequent image package comprising a subsequent image(see col. 4

lines 44-col. 5 lines 55, Hsu discloses the selection of path according to the

shortest path, cost or available bandwidth); and

(c)   sending the at least a first portion of the subsequent image package to the

recipient via the second network path(see col. 4 lines 44-col. 5 lines 55, an optimum

path is determined and selected to route additional data).

Hsu does not explicitly teach the limitation the first and second image are

captured by the same camera. However Marchese teaches a system and method for

sending video images captured by a camera (see abstract).

It would have been obvious for one of the ordinary skill in the art at the time of

the invention to send video images captured by Marchese using prioritized selection of

paths taught by Hsu because doing so would increase traffic efficiency by taking into

account bandwidth and traffic requirements in route selection (see Hsu col. 1 lines 60-

62).

As to claim 22, Hsu teaches the method of claim 21, wherein the step of

selecting a second network path comprises considering at least one of:

(i) feedback performance information,

(ii) location information regarding the system of the recipient,

(iii) cost information for the paths within the plurality of paths, or

(iv) information regarding one or more preferences of the recipient (see

col. 3 , lines 10 – 23 Hsu discloses selecting a route based on minimized cumulative

biased cost).

As to claim 23, Marchese teaches the method of claim 22, wherein the feedback

performance information includes information regarding a load time of the first

image on the system of the recipient (see fig. 2).

As to claim 24, Marchese teaches the method of claim 22, wherein the system of

the recipient has an IP address, wherein the location information regarding the system

of the recipient comprises the IP address (see fig. 2).

As to claim 25, Marchese teaches the method of claim 22, wherein the system of

the recipient has a physical location, wherein the information regarding the system of

the recipient comprises information regarding the physical location of the system of the

recipient (see fig. 2).

As to claim 26, Hsu teaches the method of claim 22, wherein the one or more

preferences of the recipient includes a preference relating to at least one of network

speed or cost (see col. 4 lines 44-col. 5 lines 55).

As to claim 27, Hsu teaches the method of claim 21, further comprising sending a

second portion of the subsequent image package to the recipient via a third path, the

second portion being different from the first portion (see col. 4 lines 44-col. 5 lines 55) .

As to claim 28, Hsu teaches the method of claim 27, wherein the step of sending

the at least a first portion of the subsequent image package is performed periodically at

a first rate (see col. 4 lines 44-col. 5 lines 55).

As to claim 29, Hsu teaches the method of claim 27, wherein the first path and the

third path are the same path (see col. 4 lines 44-col. 5 lines 55).

As to claim 30, Hsu teaches the method of claim 27, wherein the second path and the third path are the same path (see col. 4 lines 44-col. 5 lines 55, if the original path is the optimal path, no change in path selection is required).

As to claim 31, Hsu teaches the method of claim 27, wherein the second portion comprises one of the first container page or a subsequent container page (see col. 4 lines 44-col. 5 lines 55).

As to claim 32, Hsu teaches a method of controlling quality of communication among a plurality of clients over a network Hsu teaches an image in a container page. Hsu does not explicitly teach a container page is a " hypertext markup language, extensible markup language or extensible hypertext markup language". Official notice is taken that one of the ordinary skill in the art at the time of the invention would Hsu to include a container page is a " hypertext markup language, extensible markup language or extensible hypertext markup language" because doing so would allow for the creation of web pages and other information viewable in a web browser.

As to claim 33, Hsu teaches the method of claim 21, wherein the first container page comprises instructions to perform the step of selecting a second network path (see col. 4 lines 44-col. 5 lines 55).

As to claim 35, Hsu teaches the system of claim 34, further comprising a recipient address analysis logic in communication with the path setting logic, the recipient address analysis logic being configured to communicate location data to the path setting logic, wherein the location data relates to the location of the system of the recipient,

wherein the path setting logic is configured to select the second network path based at least in part on location data (see col. 4 lines 44-col. 5 lines 55).

As to claim 36, Hsu teaches the system of claim 34, further comprising a feedback analysis logic in communication with the path setting logic, the feedback analysis logic being configured to communicate feedback data to the path setting logic, wherein the feedback data relates to performance of the system of the recipient, wherein the path setting logic is configured to select the second network path based at least in part on the feedback data (see col. 4 lines 44-col. 5 lines 55).

As to claim 37, Hsu teaches the system of claim 34, further comprising a cost analysis logic in communication with the path setting logic, the cost analysis logic being configured to communicate cost data to the path setting logic, wherein the cost data relates to cost information for the network paths of the plurality of network paths, wherein the path setting logic is configured to select the second network path based at least in part on the cost data (see col. 4 lines 44-col. 5 lines 55).

As to claim 38, Hsu teaches the system of claim 34, wherein the first container page includes instructions for the path setting logic to select the second network path (see col. 4 lines 44-col. 5 lines 55).

As to claim 39, Hsu teaches the system of claim 34, wherein the routing logic is further configured to send a second portion of the second image package to the system of the recipient via a third network path (see col. 4 lines 44-col. 5 lines 55).

Response to Arguments

4.   Applicant's arguments have been considered but are moot in view of the new

ground(s) of rejection.

Conclusion

5.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

6.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Sargon N. Nano whose telephone number is (571) 272-

4007. The examiner can normally be reached on 8 hour.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for

the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Sargon Nano

May 25, 2005

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